



## **Domestic Relations Orders for the North Carolina Supplemental Retirement Plans**

Revised December 2023

The Supplemental Retirement Income Plan of North Carolina (NC 401(k) Plan) and the North Carolina Public Employee Deferred Compensation Plan (NC 457 Plan) are supplemental, defined contribution plans that are sponsored by the State of North Carolina and administered by the North Carolina Department of State Treasurer and the North Carolina Supplemental Retirement Board of Trustees. Empower has been hired by the Department and the Board to serve as the third-party administrator for the NC 401(k) and NC 457 Plans.

### **Review of Domestic Relations Orders**

A domestic relations order (DRO) is a court order that divides the account of a retirement plan participant – such as a participant in the NC 401(k) or NC 457 Plan – between the participant and an alternate payee (e.g., a former spouse) pursuant to applicable law.

The Department will review a DRO that has been entered by a court to determine whether it can be administered by the NC 401(k) or NC 457 Plan. The Department also will review draft DROs prior to entry by a court to determine whether the DRO could be administered by the NC 401(k) or NC 457 Plan if it were entered by a court.

The Department's response to a draft or entered DRO will be sent to Empower, which will respond to the participant and alternate payee (or their attorneys, if any). If the Department determines that a DRO cannot be administered, the Department may respond directly to the participant and/or alternate payee (or their attorneys, if any).

### **Authorization to Review Draft Domestic Relations Orders**

The request to review a draft DRO must be accompanied by one of the following:

1. A signed and notarized consent from the plan participant (see attachment); or
2. A subpoena issued to the Department regarding the participant's account information for the NC 401(k) Plan and/or NC 457 Plan.

Note: A DRO that has been entered by a court does not require an accompanying affidavit or subpoena.

### **Model DROS**

Model DRO templates for the NC 401(k) and NC 457 Plans are available on the Department's website at [www.myncretirement.com/retirees/domestic-relations-orders](http://www.myncretirement.com/retirees/domestic-relations-orders).



**North Carolina**  
Total Retirement Plans



*Dale R. Folwell, CPA*  
STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

#### How to Submit Documents

DROs, participant consents, and copies of subpoenas should be submitted to Empower by fax or mail to the following:

Fax: (866) 439-8602

Mail: Empower  
Attention: NC 401(k) Plan/NC 457 Plan  
P.O. Box 5340  
Scranton, PA 18505

Originals of subpoenas should be submitted to the Department at:

NC Department of State Treasurer  
Attn: General Counsel  
3200 Atlantic Avenue  
Raleigh, NC 27604

#### Other Orders

Equitable distribution orders and divorce judgments should not be submitted to Empower – either with a domestic relations order or as a substitute for a domestic relations order.

#### Plan Documents and Policy

The plan documents for the NC 401(k) Plan and the NC 457 Plan are available on the Department's website ([here](#)). See Section 12.01 of the NC 401(k) Plan and Section 10.2 of the NC 457 Plan. The Board's Policy on Domestic Relations Orders is available ([here](#)).

#### No Advice

The Department does not provide legal or tax advice on domestic relations orders, and no communication or information from the Department or Empower should be construed as advice.

#### North Carolina Retirement Systems (Pensions)

DROs for the TSERS, LGERS, and the other defined benefit pension plans administered by the Department are separate from the DROs for the NC 401(k) and NC 457 Plans and should not be submitted to Empower. For additional information, please see the Department's website at [www.myncretirement.com/retirees/domestic-relations-orders](http://www.myncretirement.com/retirees/domestic-relations-orders).



North Carolina  
Total Retirement Plans



*Dale R. Folwell, CPA*  
STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

## AFFIDAVIT

State of North Carolina

County of \_\_\_\_\_

\_\_\_\_\_ (name of affiant), appearing before the undersigned notary public and being duly sworn, states the following:

To the best of my knowledge, I am a participant in the Supplemental Retirement Income Plan of North Carolina (NC 401(k) Plan) and/or the North Carolina Public Employee Deferred Compensation Plan (NC 457 Plan).

I understand that a draft domestic relations order regarding my account, or purported account, in the NC 401(k) or NC 457 Plan has or will be submitted to the North Carolina Department of State Treasurer and/or Empower, the third-party administrator for the NC 401(k) and NC 457 Plans.

I also understand that the Department will review the draft domestic relations order to determine whether it could be administered by the NC 401(k) or NC 457 Plan if the domestic relations order were entered by a court.

I understand that this review will include (without limitation) a determination of whether I have an account in the plan, my account and loan balances on one or more dates, and whether there are or were sufficient funds in my account to calculate and satisfy the award to the alternate payee (non-participant ex-spouse) in the draft domestic relations order.

I consent to the communication of the results of the review of the draft domestic relations order, including (without limitation) the information in the previous sentence, to the following people:

1. The alternate payee (non-participant ex-spouse);
2. The attorney for the alternate payee (non-participant ex-spouse);
3. The person who submitted the draft domestic relations order to the Department or Empower; and
4. Any employee, representative, or agent of the people in Nos. 1-3.

Signature of affiant: \_\_\_\_\_

Sworn to (or affirmed) and subscribed to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Printed name of notary public: \_\_\_\_\_

Signature of notary public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

(Notary Seal)